

Unofficial Draft Copy

As of: February 14, 2017 (4:08PM)

LC2491

**** Bill No. ****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act revising public safety communications system laws; establishing a "Statewide Public Safety Communications System Act"; establishing a statewide public safety communications system administered by the department of justice; establishing principles and guidelines for the system and administration by the department; establishing a statewide public safety communications system advisory council; allowing for the establishment of subcommittees; administratively attaching the advisory council and subcommittees to the department of justice; establishing the duties of an advisory council; establishing the duties of the department of justice to implement, maintain, and sustain a statewide public safety communications system; allowing the department to establish rates or charges for public safety communications system services; allowing for the development of agreements between governmental agencies related to a public safety communications system; requiring reporting to the law and justice interim committee and legislature; establishing a statewide public safety communications system account; granting the department of justice rulemaking authority; requiring development of a public safety communications system summary by the office of budget and program planning and department of

justice; establishing summary requirements; requiring the summary be submitted to the legislative fiscal analyst; amending sections 2-17-512, and 17-7-111, MCA; and providing an effective date."

WHEREAS, it is necessary, and it is the policy of the state of Montana to promote and encourage coordination of the public safety communications system among state agencies, efficient planning and development of the system, cost-effective deployment of the system, and the sustainability of existing technology in the state to provide for the safety of its citizens and emergency responders and for the protection of public and private property; and

WHEREAS, the legislature recognizes that consistency, continuity, and cost-effectiveness is needed to sustain the existing statewide land mobile radio system to protect public and private property and to promote the safety of Montana's citizens and emergency responders.

Be it enacted by the Legislature of the State of Montana:

NEW SECTION. **Section 1. Short title.** [Sections 1 through 9] may be cited as the "Statewide Public Safety Communications System Act".

NEW SECTION. **Section 2. Findings -- intent.** (1) Montana

finds that the continued planning and development of a unified public safety communications system in the state must be conducted in an organized, deliberate, and cost-effective manner.

(2) It is the intent of [sections 1 through 9] to guide future planning for and efforts to sustain a statewide public safety communications system by:

(a) creating and communicating statewide operational recommendations and guidelines applicable to all state agencies and other entities using existing statewide public safety communications system to improve overall satisfaction with the communications system, increase the adoption of recommendations and guidelines, and to set a benchmark for user expectations;

(b) developing a sustainable maintenance plan for statewide public safety communications to ensure that the existing public safety communications system remains operational and reliable;

(c) establishing a plan to fund upgrades, modifications, maintenance or migration of technology within the public safety communications system;

(d) avoiding unnecessary spending due to duplication, expansion, or deployment of similar communication systems for other state agencies;

(e) requiring that the planning and development of the public safety communications system is conducted in conjunction with transparent budget development and approval;

(f) ensuring that public-private partnerships are used to

expand, modify, and migrate the public safety communications system when practical, cost-effective, without limiting the required functionality of an agency;

(g) to the greatest extent possible, encouraging the use of non-proprietary, standards-based technology to allow a wide array of system options and cost-effective deployments;

(h) ensuring that the primary purpose of the public safety communications system is to enable participating agencies to fulfill their respective missions, and not to implement a specific technology or standard; and

(i) requiring that future modifications, expansions, or migrations of the public safety communications system are developed in cooperation with federal, state, tribal, and local governments with a goal to provide seamless access to mission critical voice, data, or both voice and data communications to the greatest extent possible.

NEW SECTION. **Section 3. Definitions.** As used in [sections 1 through 9], the following definitions apply:

(1) "Advisory council" means the public safety communications system advisory council established in [section 4].

(2) "Department" means the department of justice established in 2-15-2001.

(3) "Land mobile radio" means a classification of private voice, data, or both communications systems primarily used for

public safety operations that utilize analog, proprietary, Project 25, or a combination of interfaces via a wireless link.

(4) "Project 25" means a suite of standards for digital radio communications designed for use by public safety organizations that are the current standards for public safety communications in North America. Montana's public safety communications system is a Project 25 based land-mobile radio system that uses Project 25 trunking technology for day-to-day operations across Montana.

(5) "Public safety communications system" means a system used primarily by public safety agencies for transmitting and receiving voice, data, or both voice and data communications from any location to public safety agency users in a service area. The term includes, but is not limited to:

(a) wireless communication systems, including land-mobile radio or microwave;

(b) wired communication systems, including fiber-optics or circuit-based technology; and

(c) any system interconnections that facilitate the operation of the public safety communications system.

(6) "Service area" means the geographical area where voice, data, or both voice and data communications is necessary to meet agency requirements.

NEW SECTION. **Section 4. Statewide public safety communications system advisory council -- membership --**

subcommittees. (1) There is a statewide public safety communications system advisory council.

(2) Subject to subsection (8), the advisory council consists of 7 members appointed by the governor as follows:

(a) the attorney general or the attorney general's designee from the department, who serves as presiding officer of the council;

(b) a representative of the governor's office;

(c) a representative of the local law enforcement community;

(d) a representative of the fire protection community;

(e) a representative of the emergency medical community;

(f) a representative of local governments; and

(g) a representative of tribal governments.

(3) The advisory council may create temporary or permanent subcommittees, when necessary, to advise members of the council. Subcommittee membership, appointed by a majority of the advisory council, may include, but is not limited to:

(a) a representative of the Montana highway patrol;

(b) a representative of the department of transportation, maintenance division;

(c) a representative of the department of military affairs, disaster and emergency services division;

(d) a representative of the department of administration, state information technology services division;

(e) two representatives of the Montana association of

counties, with one representing populations less than 30,000 and one representing populations greater than 30,000;

(f) two representatives of the Montana league of cities and towns, with one representing populations less than 30,000 and one representing populations greater than 30,000;

(g) a representative of the Montana sheriffs and peace officers association;

(h) a representative of the Montana association of chiefs of police;

(i) a representative of the Montana state fire chiefs' association;

(j) a representative of the Montana state volunteer firefighter's association;

(k) a representative of the Montana emergency medical services association; and

(l) a representative of the Montana association of public safety communications officials.

(4) The advisory council shall establish a technical subcommittee to advise subcommittees appointed in accordance with subsection (3) and the advisory council established in subsection (2) on subjects including, but not limited to:

(a) system maintenance and operational issues; and

(b) technology considerations as assigned by the advisory council.

(5) The advisory council and related subcommittees are attached to the department for administrative purposes only, as

provided in 2-15-121.

(6) The advisory council shall, within its budget, hold quarterly meetings.

(7) Advisory council members and subcommittee members shall serve without additional salary but are entitled to reimbursement for travel expenses incurred while engaged in council or subcommittee activities as provided for in 2-18-501 through 2-18-503.

(8) (a) Membership on the advisory council established in accordance with subsection (2) is limited to agencies or their appointed representatives who use public safety communications system.

(b) Members shall work to improve and sustain the public safety communications system within the state.

(c) Membership may not include representatives who are employed by or consulting for potential vendors or represent business interests.

(d) This subsection (8) does not limit the ability of a vendor, consultant, or other individual representing a business to, by invitation, provide the advisory council with useful information.

(9) Vendors, consultants, and other individuals representing business interests may be appointed to a subcommittee formed in accordance with subsections (3) or (4).

NEW SECTION. **Section 5. Statewide public safety**

communications system advisory council -- duties and responsibilities. (1) The advisory council shall:

(a) advise the department concerning future development and sustainability of the statewide public safety communications system;

(b) provide recommendations to the department for the continued funding of the statewide public safety communications system;

(c) provide recommendations to the department concerning the establishment of potential rates and other charges for use of the statewide public safety communications system to sustain, expand, or both sustain and expand the system;

(d) advise the department in the development of statewide public service communications system standards and policies; and

(e) advise the department on significant matters concerning public safety communications technology development and services in the state of Montana, including rulemaking in accordance with [section 9].

(2) The advisory council shall review the operations and funding of the public safety communications system in Montana to ensure:

(a) efficient spending of public funds;

(b) overall operational efficiency, while not limiting department or member agencies in fulfilling their respective missions; and

(c) that the use of state funds for other similar public

safety communications systems be reviewed to determine whether requests for funding similar systems may be met by a reconfiguration or expansion of the current system.

NEW SECTION. **Section 6. Duties of the department.** (1)

There is a statewide public safety communications system administered by the department.

(2) The department shall implement, sustain, and plan for the statewide public safety communications system within the limits of budget authority dedicated to the system.

(3) The department shall:

(a) encourage and foster the development of new and innovative technology within the public safety communications system;

(b) promote and coordinate the sharing of existing, state-owned, public safety communications system resources, including analog and Project 25 technology, microwave or other back haul capabilities, and other equipment and software among federal, state, county, tribal, and local agencies;

(c) establish and execute a long-term, fiscally sustainable, strategic plan for the statewide public safety communications system;

(d) establish and communicate statewide policies and standards for the public safety communications system;

(e) staff and cover the costs of the advisory council established in [section 4];

(f) operate and maintain the statewide public safety communications system for the use of state government, political subdivisions, and other participating entities under terms and conditions established by the department, within the limits of budget authority dedicated to the system;

(g) establish rates and other charges for public safety communications system services provided by the department;

(h) ensure collection of any user fees is dedicated to the operation, maintenance, expansion, or any combination of operation, maintenance, or expansion of the statewide public safety communications system. Proposed fees must be deposited in the account established in [section 8] and included in the department's budget;

(i) provide, on a quarterly basis to any participating agency, an overview of public safety communications system operational budgets and expenditures to insure transparency;

(j) accept federal funds, gifts, grants, and donations for the purposes of [sections 1 through 9];

(k) accept county, tribal, and municipal funds provided for the operation, maintenance, expansion, or any combination of operation, maintenance, or expansion of the public safety communications system;

(l) at the department's discretion, accept a transfer of ownership for the existing system, subsystems or other assets or property from a county, tribal, or municipal government;

(m) establish agreements between governmental agencies that

currently own, operate, or both own and operate infrastructure on the public safety communications system. Agreements must:

(i) establish federal, state, county, local or city, or tribal operational liabilities and service responsibilities per the current level of federal, state, county, local or city, or tribally-owned infrastructure with the public safety communications system; and

(ii) if applicable, recognize current network control points are owned and administered by a county and will remain owned and administered by a county;

(n) pursue funding opportunities that can be leveraged based on public safety communications system agency participation;

(o) before September 1 of each year, report to the law and justice interim committee and to the legislature as provided in 5-11-210 on the public safety communications system activities of the department; and

(p) represent the state before public and private entities on matters pertaining to the statewide public safety communications system.

(4) The department may contract with qualified private organizations, foundations, or individuals to carry out the purposes of [sections 1 through 9].

(5) The department shall operate and maintain the statewide public safety communications system within the limits of budget authority dedicated to the system.

NEW SECTION. **Section 7. Public safety communications**

summary -- office of budget and program planning. (1) Each biennium, the office of budget and program planning, in cooperation with the department, shall:

 (a) prepare a statewide summary of proposed major public safety communications system projects to be included in the state budget; and

 (b) determine criteria for classifying a project as a major public safety communications system project.

(2) A public safety communications system major project summary pursuant to subsection (1) must include:

 (a) a description of the project, and the benefits of the project to an institution, agency, or branch of government;

 (b) a detailed description of the need for and necessity of the project;

 (c) an estimate, prepared in consultation with the impacted agency, institution, or branch of government, of the costs of the proposal and the impacts to the existing public safety communications system;

 (d) the estimated cost of the project, including changes to long-term maintenance and sustainability of the public safety communications system;

 (e) the source of funding for a project, including funds within an existing operating budget, or a new budget request;

 (f) a list of internal service rate changes, if any,

proposed because of the project; and

(g) any other information determined necessary by the budget office or department or requested by the attorney general or legislature.

(3) The public safety communications system project summary developed in accordance with this section must be presented to the legislative fiscal analyst in accordance with 17-7-111(4).

NEW SECTION. **Section 8. Public safety communications system account.** (1) There is an account in the state special revenue fund established in 17-2-102 to be known as the public safety communications system account.

(2) There must be deposited in the account:

(a) money received from legislative allocations;

(b) a transfer of money from a state or local agency for the purposes of [sections 1 through 9];

(c) rates, charges, or fees collected by the department in accordance with [section 6(3)(g) or (3)(h)];

(d) funds accepted in accordance with [section 6(3)(k)];

and

(e) a gift, donation, grant, legacy, bequest, or devise made for the purposes of [sections 1 through 9].

(3) There is an account in the federal special revenue fund established in 17-2-102 to be known as the emergency communications system account. There must be deposited in the account money received from the federal government for the

purposes of [section 1 through 9].

(4) Funds in either account created in this section may be used by the department for the purposes of [sections 1 through 9].

NEW SECTION. **Section 9. Rulemaking authority.** (1) The department may adopt rules necessary to implement [sections 1 through 8]. Rules may include provisions for:

(a) implementation of [sections 1 through 8]; and
(b) administration of the statewide public safety communications system in accordance with [sections 1 through 8];

(2) Rules must be adopted in accordance with the Montana Administrative Procedure Act provided for in Title 2, chapter 4.

Section 10. Section 2-17-512 , MCA, is amended to read:

"2-17-512. Powers and duties of department. (1) The department is responsible for carrying out the planning and program responsibilities for information technology for state government, except the national guard. The department shall:

(a) encourage and foster the development of new and innovative information technology within state government;
(b) promote, coordinate, and approve the development and sharing of shared information technology application software, management systems, and information that provide similar functions for multiple state agencies;
(c) cooperate with the office of economic development to

promote economic development initiatives based on information technology;

(d) establish and enforce a state strategic information technology plan as provided for in 2-17-521;

(e) establish and enforce statewide information technology policies and standards;

(f) review and approve state agency information technology plans provided for in 2-17-523;

(g) coordinate with the office of budget and program planning to evaluate budget requests that include information technology resources. The department shall make recommendations to the office of budget and program planning for the approval or disapproval of information technology budget requests, including an estimate of the useful life of the asset proposed for purchase and whether the amount should be expensed or capitalized, based on state accounting policy established by the department. An unfavorable recommendation must be based on a determination that the request is not provided for in the approved agency information technology plan provided for in 2-17-523.

(h) staff the information technology board provided for in 2-15-1021;

(i) fund the administrative costs of the information technology board provided for in 2-15-1021;

(j) review the use of information technology resources for all state agencies;

(k) review and approve state agency specifications and procurement methods for the acquisition of information technology resources;

(l) review, approve, and sign all state agency contracts and shall review and approve other formal agreements for information technology resources provided by the private sector and other government entities;

(m) operate and maintain a central computer center for the use of state government, political subdivisions, and other participating entities under terms and conditions established by the department;

(n) operate and maintain a statewide telecommunications network for the use of state government, political subdivisions, and other participating entities under terms and conditions established by the department;

(o) ensure that the statewide telecommunications network is properly maintained. The department may establish a centralized maintenance program for the statewide telecommunications network.

(p) subject to [sections 1 through 9], coordinate public safety communications on behalf of public and private safety agencies as provided for in 2-17-543 through 2-17-545;

(q) manage the state 9-1-1 program as provided for in Title 10, chapter 4, part 3;

(r) provide electronic access to information and services of the state as provided for in 2-17-532;

(s) provide assistance to the legislature, the judiciary, the governor, and state agencies relative to state and interstate information technology matters;

(t) establish rates and other charges for services provided by the department;

(u) accept federal funds granted by congress or by executive order and gifts, grants, and donations for any purpose of this section;

(v) dispose of personal property owned by it in a manner provided by law when, in the judgment of the department, the disposal best promotes the purposes for which the department is established;

(w) implement this part and all other laws for the use of information technology in state government;

(x) report to the appropriate interim committee on a regular basis and to the legislature as provided in 5-11-210 on the information technology activities of the department; and

(y) represent the state with public and private entities on matters of information technology.

(2) If it is in the state's best interest, the department may contract with qualified private organizations, foundations, or individuals to carry out the purposes of this section.

(3) The director of the department shall appoint the chief information officer to assist in carrying out the department's information technology duties."

{Internal References to 2-17-512:

2-15-404 2-17-513 2-17-514 2-17-516

17-5-807}

Section 11. Section 17-7-111 , MCA, is amended to read:

"17-7-111. Preparation of state budget -- agency program budgets -- form distribution and contents. (1) (a) To prepare a state budget, the executive branch, the legislature, and the citizens of the state need information that is consistent and accurate. Necessary information includes detailed disbursements by fund type for each agency and program for the appropriate time period, recommendations for creating a balanced budget, and recommended disbursements and estimated receipts by fund type and fund category.

(b) Subject to the requirements of this chapter, the budget director and the legislative fiscal analyst shall by agreement:

(i) establish necessary standards, formats, and other matters necessary to share information between the agencies and to ensure that information is consistent and accurate for the preparation of the state's budget; and

(ii) provide for the collection and provision of budgetary and financial information that is in addition to or different from the information otherwise required to be provided pursuant to this section.

(2) In the preparation of a state budget, the budget director shall, not later than the date specified in 17-7-112(1), distribute to all agencies the proper forms and

instructions necessary for the preparation of budget estimates by the budget director. These forms must be prescribed by the budget director to procure the information required by subsection (3). The forms must be submitted to the budget director by the date provided in 17-7-112(2), or the agency's budget is subject to preparation based upon estimates as provided in 17-7-112(5). The budget director may refuse to accept forms that do not comply with the provisions of this section or the instructions given for completing the forms.

(3) Subject to subsections (7) and (8), the agency budget request must set forth a balanced financial plan for the agency completing the forms for each fiscal year of the ensuing biennium. The plan must consist of:

(a) a consolidated agency budget summary of funds subject to appropriation, as provided in 17-8-101, for the current base budget expenditures, including statutory appropriations, and for each present law adjustment and new proposal request setting forth the aggregate figures of the full-time equivalent personnel positions (FTE) and the budget, showing a balance between the total proposed disbursements and the total anticipated receipts, together with the other means of financing the budget for each fiscal year of the ensuing biennium, contrasted with the corresponding figures for the last-completed fiscal year and the fiscal year in progress;

(b) a schedule of the actual and projected receipts, disbursements, and solvency of each fund for the current

biennium and estimated for the subsequent biennium;

(c) a statement of the agency mission and a statement of goals and objectives for each program of the agency. The goals and objectives must include, in a concise form, sufficient specific information and quantifiable information to enable the legislature to formulate an appropriations policy regarding the agency and its programs and to allow a determination, at some future date, on whether the agency has succeeded in attaining its goals and objectives.

(d) actual FTE and disbursements for the completed fiscal year of the current biennium, estimated FTE and disbursements for the current fiscal year, and the agency's request for the ensuing biennium, by program;

(e) actual disbursements for the completed fiscal year of the current biennium, estimated disbursements for the current fiscal year, and the agency's recommendations for the ensuing biennium, by disbursement category;

(f) for agencies with more than 20 FTE, a plan to reduce the proposed base budget for the general appropriations act and the proposed state pay plan to 95% of the current base budget or lower if directed by the budget director. Each agency plan must include base budget reductions that reflect the required percentage reduction by fund type for the general fund and state special revenue fund types. Exempt from the calculations of the 5% target amounts are legislative audit costs, administratively attached entities that hire their own staff under 2-15-121, and

state special revenue accounts that do not transfer their investment earnings or fund balances to the general fund. The plan must include:

- (i) a prioritized list of services that would be eliminated or reduced;

- (ii) for each service included in the prioritized list, the savings that would result from the elimination or reduction; and

- (iii) the consequences or impacts of the proposed elimination or reduction of each service.

- (g) a reference for each new information technology proposal stating whether the new proposal is included in the approved agency information technology plan as required in 2-17-523;

- (h) energy cost saving information as required by 90-4-616; and

- (i) other information the budget director feels is necessary for the preparation of a budget.

(4) The budget director shall prepare and submit to the legislative fiscal analyst in accordance with 17-7-112:

- (a) detailed recommendations for the state long-range building program. Each recommendation must be presented by institution, agency, or branch, by funding source, with a description of each proposed project.

- (b) a statewide project budget summary as provided in 2-17-526;

- (c) the proposed pay plan schedule for all executive

branch employees at the program level by fund, with the specific cost and funding recommendations for each agency. Submission of a pay plan schedule under this subsection is not an unfair labor practice under 39-31-401.

(d) agency proposals for the use of cultural and aesthetic project grants under Title 22, chapter 2, part 3, the renewable resource grant and loan program under Title 85, chapter 1, part 6, the reclamation and development grants program under Title 90, chapter 2, part 11, and the treasure state endowment program under Title 90, chapter 6, part 7.

(e) a statewide summary of proposed major public safety communications system projects developed in accordance with [section 7].

(5) The board of regents shall submit, with its budget request for each university unit in accordance with 17-7-112, a report on the university system bonded indebtedness and related finances as provided in this subsection (5). The report must include the following information for each year of the biennium, contrasted with the same information for the last-completed fiscal year and the fiscal year in progress:

(a) a schedule of estimated total bonded indebtedness for each university unit by bond indenture;

(b) a schedule of estimated revenue, expenditures, and fund balances by fiscal year for each outstanding bond indenture, clearly delineating the accounts relating to each indenture and the minimum legal funding requirements for each

bond indenture; and

(c) a schedule showing the total funds available from each bond indenture and its associated accounts, with a list of commitments and planned expenditures from the accounts, itemized by revenue source and project for each year of the current and ensuing bienniums.

(6) (a) The department of revenue shall make Montana individual income tax information available by removing names, addresses, and social security numbers and substituting in their place a state accounting record identifier number. Except for the purposes of complying with federal law, the department may not alter the data in any other way.

(b) The department of revenue shall provide the name and address of a taxpayer on written request of the budget director when the values on the requested return, including estimated payments, are considered necessary by the budget director to properly analyze state revenue and are of a sufficient magnitude to materially affect the analysis and when the identity of the taxpayer is necessary to evaluate the effect of the return or payments on the analysis being performed.

(7) (a) The department of public health and human services' budget request for the 2013 biennium must identify changes necessary to reduce the 2013 biennium expenditures to the level funded in the general appropriations act. The department may include changes such as reducing administrative costs, developing more cost-efficient methods to deliver

services, limiting the number of medicaid services that adults may receive, changing medicaid services included in the Montana medicaid state plan, changing eligibility or level-of-care requirements for medicaid waiver services, limiting or changing services that are fully state-funded, or implementing other initiatives that reduce state funds. Achieving the necessary general fund reduction in the 2013 biennium budget request may not include shifting costs to state special revenue funds.

(b) The department of public health and human services shall prepare a work plan with goals, milestones, and measures to guide its review of alternatives to identify, evaluate, and select initiatives to reduce ongoing state spending in its 2013 biennium budget submission. The department shall submit the work plan, goals, milestones, and measures to the legislative finance committee at its first meeting after the adjournment of the 2009 legislative session for its review and comment. The department shall provide an update of its budget reduction for review and comment at each legislative finance committee meeting in a format developed with and agreed upon by the committee.

(8) Each agency budget request for the 2013 biennium must include the adjustments to present law base specified in 17-7-102(10)(b)."

{Internal References to 17-7-111:

2-15-1028	2-17-526	2-18-301	2-18-303
2-18-811	15-1-106	15-30-2618	15-31-511
17-6-305	17-7-112	17-7-123	20-9-306
20-9-326	20-9-346	37-1-106	44-2-304
53-6-110	75-1-1101	75-10-533	87-2-722}

NEW SECTION. **Section 12. {standard} Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

NEW SECTION. **Section 13. {standard} Codification instruction.** [Sections 1 through 9] are intended to be codified as an integral part of Title 44, and the provisions of Title 44 apply to [sections 1 through 9].

NEW SECTION. **Section 14. {standard} Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. **Section 15. {standard} Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 16. {standard} Effective date.** [This act] is effective July 1, 2017.

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Unofficial Draft Copy

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LC2491

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